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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SAN JOSE, CALIFORNIAName: LEE KEITH BRETTAddress: 17790 COSHOCTON ROADMOUNT VERNON, OHIO 43050

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

In Pro Per

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LFP, IP, LLC,

CASE NUMBER:

Plaintiff

2:16-cv-00166-FMO (RAO x)

v.

LEE KEITH BRETT,

ANSWER, AFFIRMATIVE DEFENSES AND  
COUNTERCLAIMS

Defendant(s).

## I. ANSWER

Defendant, Lee Keith Brett, appearing pro se, answers Plaintiff's complaint as follows:

1. Defendant admits that he operates an online retail apparel store that sells American Hustler products. Defendant denies all remaining allegations.

2. Denied.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 and therefore denies the same.

4. Defendant admits he is the main owner of Americanhustlerclothing.com. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 and therefore denies the same.

5. Denied.

1 6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
2 allegations contained in paragraph 6 and therefore denies the same.

3 7. Admit previous residence at 5751 Tutttles Blvd., Dublin , Ohio. Admit Defendant controls  
4 www.americanhustlerclothing.com. Defendant denies he operates or controls the look or  
5 appearance of the site.

6 8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
7 allegations contained in paragraph 8 and therefore denies the same.

8 9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
9 allegations contained in paragraph 9 and therefore denies the same.

10 10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
11 allegations contained in paragraph 10 and therefore denies the same.

12 11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
13 allegations contained in paragraph 11 and therefore denies the same.

14 12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
15 allegations contained in paragraph 12 and therefore denies the same.

16 13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
17 allegations contained in paragraph 13 and therefore denies the same.

18 14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
19 allegations contained in paragraph 14 and therefore denies the same.

20 15. Admit.

21 16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
22 allegations contained in paragraph 16 and therefore denies the same.

23 17. Admit.

24 18. Admit.

25 19. Admit.

26 20. Denied.

27 21. Denied.

1 22. Defendant Brett incorporates by reference the allegations and responses contained in  
2 paragraphs 1 through 22 of this Answer as if fully set forth herein.

3 23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
4 allegations contained in paragraph 23 and therefore denies the same.

5 24. Denied.

6 25. Denied.

7 26. Denied.

8 27. Denied,

9 28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
10 allegations contained in paragraph 28 and therefore denies the same.

11 29. Defendant incorporates by reference the allegations and responses contained in paragraphs 1  
12 through 28 of this Answer as if fully set forth herein.

13 30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
14 allegations contained in paragraph 30 and therefore denies the same.

15 31. Denied.

16 32. Denied.

17 33. Denied.

18 34. Denied.

19 35. Denied.

20 36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
21 allegations contained in paragraph 36 and therefore denies the same.

22 37. Defendant incorporates by reference the allegations and responses contained in paragraphs 1  
23 through 36 of this Answer as if fully set forth herein.

24 38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
25 allegations contained in paragraph 38 and therefore denies the same.

26 39. Denied.

27 40. Denied.

28 41. Denied.

1 42. Defendant Brett incorporates by reference the allegations and responses contained in  
2 paragraphs 1 through 22 of this Answer as if fully set forth herein.

3 43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
4 allegations contained in paragraph 43 and therefore denies the same.

5 44. Defendant Brett incorporates by reference the allegations and responses contained in  
6 paragraphs 1 through 43 of this Answer as if fully set forth herein.

7 45. Denied.

8 46. Denied.

9 47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
10 allegations contained in paragraph 47 and therefore denies the same.

## 11 II. AFFIRMATIVE DEFENSES

12 By way of further answer, Defendant asserts and alleges the following affirmative defenses:

13 1. Estoppel. Plaintiff failed to "police" its mark in the marketplace. Plaintiff also consented to and  
14 acquiesced in Defendant's use of its trademark. Plaintiff should be estopped from suing Defendant  
15 alleging violation of federal trademark infringement statutes.

16 2. License. Defendant previously applied and paid for licensing fees to engage in the business of  
17 selling its merchandise.

18 3. Laches. Plaintiff's claims are barred by laches given the delay in bringing this lawsuit.

19 4. Waiver. Plaintiff waived its right to assert claim against Defendant for likelihood of confusion,  
20 and that Defendant violated federal trademark infringement law, since Plaintiff failed to "police" its  
21 marks against third parties, and also failed to police its mark in the entire marketplace.

22 5. Plaintiff failed to state a claim upon which relief can be granted.

23 6. Mitigation of Damages. Plaintiff has failed to mitigate its damages if any, or protect itself from  
24 avoidable consequences.

1 III. COUNTERCLAIMS

2 By way of further answer of Plaintiff's complaint, Defendant asserts the following counterclaim(s)  
3 and allege as follows:

- 4 1. Abuse of Process. Plaintiff's institution and continuation of the instant proceeding is done with  
5 the intention of interrupting Defendant's business causing Defendant distress and lost profits.  
6 2. Damages for lost earnings and loss of income for tortious, wrongful interference with contractual  
7 relations and business expectancy.

8 IV. AMENDMENT OF RIGHTS

9 Defendant reserves the right to amend this pleading by adding affirmative defenses, counterclaims,  
10 cross-claims or by instituting third party actions as additional facts are obtained through future  
11 investigation and discovery.

12 V. PRAYER FOR RELIEF

13 WHEREFORE, Defendant Lee Brett prays for relief and demands judgment as follows:

- 14 1. For dismissal of Plaintiff's complaint with prejudice, and without an award of costs;  
15 2. Awarding Defendant damages on all counterclaims in an amount to be established at the time  
16 of trial;  
17 3. Awarding Defendant's lost profits for Plaintiff's tortious, wrongful interference with  
18 contractual relations and business expectancy.  
19 4. Awarding Defendant his costs, reasonable attorneys' fees and expert witness fees.  
20 5. Awarding Prejudgment and post judgment interest.  
21 6. Awarding Defendant punitive damages against Plaintiffs for their willful misconduct, in an  
22 amount to be proven at trial.  
23 7. Granting Defendant such other and further relief as the Court deems just and equitable.

24 Dated this 31st day of July, 2016.

25   
26 LEE K. BRETT, PRO SE  
27  
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